

MDR Tracking Number: M5-04-2875-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution-General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 5-5-04.

I. MEDICAL NECESSITY DISPUTE

The IRO reviewed medical necessity of FCE rendered on 10-29-03.

II. IRO DECISION

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

I. FEE DISPUTE

Whether there should be reimbursement for CPT codes: 97545WH, 97546WH, 99080-73 and 97750FC.

II. FINDINGS

On 5-14-04, the respondent sent payment for dates of service 9-8-03 through 9-19-03. Therefore, these dates will not be considered further in this decision.

On 5-18-04, the respondent reported that preauthorization was given for 30 visits of work hardening rendered from 8-26-03 through 10-27-03.

The respondent denied reimbursement based upon, “E – Entitlement to Benefits; V – Unnecessary treatment (with Peer Review).”

The insurance carrier did not file a TWCC-21 disputing the entitlement of benefits in accordance with Section 408.027(d); therefore, the insurance carrier inappropriately denied reimbursement based upon “E.”

The insurance carrier violated Rule 133.301(a) by retrospectively denying preauthorized work hardening program based upon "V;" therefore, the work hardening program will be reviewed in accordance with *Medical Fee Guideline*.

III. RATIONALE

| DOS | CPT CODE | Billed | Paid | EOB Denial Code | MAR\$ (Maximum Allowable Reimbursement) | Reference | Rationale |
|---|----------|----------|--------|---|---|---|---|
| 9-22-03 9-23-03 9-24-03 9-25-03 9-26-03 9-29-03 10-1-03 10-2-03 10-3-03 10-6-03 10-7-03 10-8-03 10-9-03 10-14-03 10-15-03 10-16-03 10-17-03 10-20-03 10-22-03 10-23-03 10-27-03 | 97545WH | \$102.40 | \$0.00 | V E V V E E V V V V V V, E V V V V V V V V V V | \$51.20/hr X 2 = \$102.40 | Rule 133.301(a) Section 408.027(d) CPT Code Descriptor Rule 134.202(e)(5)(A)(iii) | MAR reimbursement of \$102.40 X 21 dates = \$2150.40. |

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| 9-22-03 9-23-03 9-24-03 9-25-03 9-26-03 9-29-03 10-1-03 10-3-03 10-6-03 10-7-03 10-8-03 10-14-03 10-20-03 10-22-03 10-23-03 | 97546WH | \$307.20 | \$0.00 | V E V V E E V V V V V V V V V | \$51.20/hr X 6 = \$307.20 | Rule 133.301(a) Section 408.027(d) CPT Code Descriptor | MAR reimbursem ent of \$307.20 X 15 dates = \$4608.00. |
| 10-2-03 10-9-03 10-15-03 10-16-03 10-17-03 | 97546WH | \$256.00 | \$0.00 | V E, V V V V | \$51.20/hr X 5 = \$256.00 | Rule 133.301(a) Section 408.027(d) CPT Code Descriptor | MAR reimbursem ent of \$256.00 X 5 dates = \$1280.00. |
| 10-27-03 | 97546WH | \$153.60 | \$0.00 | V | \$51.20/hr X 3 = \$153.60 | Rule 133.301(a) | MAR reimbursem ent of \$153.60 is recommend ed. |
| 10-6-03 | 99080-73 | \$15.00 | \$0.00 | F | \$15.00 | Rule 129.5(d) | MAR reimbursem ent of \$15.00 is recommend ed. |
| 12-19-03 | 97750FC (12) | \$444.00 | \$0.00 | V | | | Requestor WD from dispute |

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|-------|--|--|---|
| TOTAL | | | The requestor is entitled to reimbursement of \$8039.40. |
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IV. DECISION & ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 9-8-03 through 12-19-03 in this dispute.

The above Findings, Decision and Order are hereby issued this 15th day of February 2005.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

January 14, 2005

Ms. Rosalinda Lopez
Texas Workers Compensation Commission
MS48
7551 Metro Center Drive, Suite 100
Austin, Texas 78744-1609

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-04-2875-01
TWCC #:
Injured Employee:
Requestor: Atlantis Healthcare Clinic/R. Todd Petersen, D.C.
Respondent: Amerisure Mutual Insurance Co.
MAXIMUS Case #: TW04-0511

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to MAXIMUS for independent review in accordance with this Rule.

MAXIMUS has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation

provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the MAXIMUS external review panel who is familiar with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The MAXIMUS chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians

or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to MAXIMUS for independent review. In addition, the MAXIMUS chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a male who sustained a work related injury on _____. The patient reported that while at work he fractured the 1st and 3rd digits on his left foot when a metal pipe fell off a loading machine onto his foot. Initially the patient was treated in an emergency room where stitches were placed and he later underwent surgery to set the fractures. Because of some abnormalities that were noted, the patient underwent partial amputation of the toes on 2/18/03. The current diagnosis for this patient includes amputation of limb(s) causing abnormal patient reaction, or later complication, without mention of misadventure at time of operation. Postoperatively the patient participated in a work hardening program. On 10/29/03 the patient underwent an FCE to determine the patient's work functional status.

Requested Services

FCE on 10/29/03.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Treating Doctor Position Statement 12/9/04
2. FCE Report 10/29/03

Documents Submitted by Respondent:

1. Medical Record Review 6/8/03
2. SOAP Notes 9/8/03 – 12/19/03
3. FCE 10/29/03

Decision

The Carrier's denial of authorization for the requested services is overturned.

Rationale/Basis for Decision

The MAXIMUS chiropractor reviewer noted that this case concerns a male who sustained a work related injury to his left foot on _____. The MAXIMUS chiropractor reviewer also noted that the patient was initially treated with surgery to set the fractures of his left foot, but subsequently underwent partial amputation of the toes of the left foot on 2/18/03. The MAXIMUS chiropractor reviewer further noted that the patient was treated postoperatively with a work hardening program and that the patient had undergone an FCE on 10/29/03. The MAXIMUS chiropractor reviewer indicated that this patient underwent partial amputation of the toes on his left foot. The MAXIMUS chiropractor reviewer also indicated that postoperatively the patient required therapy and a work hardening program. The MAXIMUS chiropractor reviewer further indicated that an FCE was medically necessary to determine this patient's abilities for postoperative treatment.

Therefore, the MAXIMUS chiropractor consultant concluded that the FCE performed on 10/29/03 was medically necessary to treat this patient's condition.

Sincerely,
MAXIMUS

Elizabeth McDonald
State Appeals Department